

**Mihir Engineers Ltd. Vs. Cce**

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**SooperKanoon Citation :** [sooperkanoon.com/34668](http://sooperkanoon.com/34668)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Mar-23-2004

**Judge :** K Usha, N T C.N.B.

**Appellant :** Mihir Engineers Ltd.

**Respondent :** Cce

**Judgement :**

1. In this appeal at the instance of the assessee challenge is against the order passed by the Commissioner (Appeals) dated 29.8.2003. The proceeding arise out of 9 show cause notices proposing to include the cost of bought out items in assessable value of the goods manufactured by the assessee. The adjudicating authority under order dated 16.10.2000 dropped the demand following the ratio of the orders passed by this Tribunal in appellant's own case where similar allegations were made. On appeal by the Revenue, the Commissioner (Appeals) affirmed the demand under order dated 29.8.2003 which is under challenge before us.

2. The appellant is engaged in the manufacture of parts of cooling towers, namely, Fiberglass Reinforced Plastic Plastic (for short FRP) Casing and FRP Basin falling under sub-heading 8419.00 in their factory during the relevant period. The appellant has orders for supply and installation of cooling towers at customer's site. Out of 21 essential parts required for the installation of cooling towers, the appellant manufactures only above mentioned two items. The remaining 20 parts are purchased by the appellant from market and brought into the factory.

The bought out parts are not subjected to any process or testing or trial within the factory. They are not fitted or attached to the goods manufactured in the factory before clearance. The appellant used to erect all parts piece by piece at the site of the customers on civil foundation. Cooling tower when it comes into existence at the site of the customer, it becomes an immovable property as it is permanently embedded in the earth.

3. The appellant when it received 9 show cause notices, as mentioned above resisted the demand contending that the value of the bought out items cannot be added in computing the assessable value of the goods produced by them. It is brought to out notice that the Tribunal has occasion to consider identical issue in the case of the appellant under Final Order No. 131/99/-A dated 19.2.99 and Final Order No.24-25/2000-B dated 7.1.2000. The Tribunal has taken the view that the cost of bough out items which were brought into assessee's factory and supplied alongwith other parts for installation of cooling towers is not required to be included in the assessable value of the goods manufactured by the assessee. We find no reason to take a different view in this case.

4. In the result, the impugned order is set aside and the appeal stands allowed.

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